

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF THE STATE OF OKLAHOMA**

MISTY G. BEASLEY,)	
)	
Plaintiff,)	
)	
v.)	No. CIV-2020- 1179-PRW
)	
GMRI, Inc., d/b/a OLIVE GARDEN)	ADA claim arising in Comanche County
RESTAURANT,)	
Defendant.)	JURY TRIAL DEMANDED

COMPLAINT

COMES NOW THE PLAINTIFF and for his cause of action herein alleges that:

PARTIES

1. The Plaintiff is Misty G. Beasley, an adult female, who suffers from a disability and who resides in Comanche County, Oklahoma.
2. The Defendant is GMRI, Inc., d/b/a Olive Garden Restaurant, a foreign corporation doing business in Comanche County and throughout the State of Oklahoma.

JURISDICTION AND VENUE

3. This is a cause of action for discrimination based on disability as prohibited by the Americans With Disabilities Act, as amended, and by the Oklahoma Anti-Discrimination Act. Jurisdiction over the federal claim is vested in this Court pursuant to 42 U.S.C. § 2000e-5(f)(1), 42 U.S.C. § 12117(a) and 28 U.S.C. § 1331.
4. All of the actions complained of occurred in Comanche County and the Defendant may be served in Oklahoma County, Oklahoma. Both Comanche and Oklahoma County are located in the Western District of the United States District Court of Oklahoma an venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and 42 U.S.C. § 2000e-5(f)(3).

STATEMENT OF FACTS

5. Plaintiff is a female who was employed by the Defendant from approximately December 5, 2016, to the date of her wrongful termination on or about January 13, 2020.
6. At the time of her termination, the Plaintiff held the position of LBO (lobby, bar and offsite sales) manager for the Defendant.
7. The Defendant is a company which employed more than fifteen (15) employees during each week of the years 2018, 2019 and 2020.
8. The Plaintiff suffers from lupus which is a chronic disease that compromises the immune system and causes inflammatory damages to various parts of the body and which can damage the functions of those areas. Because lupus significantly impairs the major body function and operation of the immune system, it is a disability under the Americans with Disabilities Act as amended. Further, the Defendant regarded the Plaintiff to be impaired and/or disabled due to her continuing periodic need for medical leave. Because of Plaintiff's lupus, Plaintiff has been limited in her ability to work during flare-ups and she is more susceptible to other infections such as the flu, sore throats and colds and her compromised immunity results in those other infections being more severe and lasting longer.
9. A new General Manager became Plaintiff's supervisor around May of 2019, and the new General Manager started regularly complaining to the Plaintiff about her absences for illness.
10. In November 2019, the General Manager and the Director of Operations met with Plaintiff and said, "We know you have Lupus and have missed a lot of work. It's important that you not miss any more work and that your job requires you to be at work."

11. On approximately January 5, 2020, the Defendant's Lawton location ran out of bread. This occurred on the shift of the of the morning manager who failed to address the matter. When Plaintiff became aware of the problem she sent an assistant manager to the nearest Olive Garden location to retrieve more bread. While the restaurant was out of bread, several patrons were upset and complained.
12. Approximately January 10, 2020, Plaintiff called her General Manager to tell him that she was at work sick. The General Manager initially told Plaintiff that she could go home and then called back about 15 minutes later and said, "Are you aware that you have had sixteen illness related issues in the last six months? Have you given any consideration to the offer we gave you to take a few months off?" Plaintiff advised that she could not take off without pay because she is a single parent and her income was necessary to pay living expenses. The General Manager repeated that Plaintiff should consider taking off.
13. The following Monday, January 13, 2020, Plaintiff arrived at work and the Director of Operations and the General Manager came and told Plaintiff she was fired. The stated reason was failure to have bread sticks as an error in judgment. This reason was false as it was the initial responsibility of the culinary manager who did not address the matter when the shipment came in short, and then the mid-day manager who came in before Plaintiff who also did not act to address the matter.
14. The real reason for Plaintiff's termination was her disability and her need for periodic leave as an accommodation for that condition.
15. Discrimination based on disability, actual or perceived, is prohibited by the ADAAA as well as by the Oklahoma Anti-Discrimination Act.

16. As the direct result of the discrimination based on her disability, Plaintiff has suffered damages in the form of lost earnings from the date of her termination and continuing through the time of filing this action, and Plaintiff has suffered dignitary harms in the form of anger, worry, embarrassment and other like unpleasant emotions. For these injuries, Plaintiff is entitled to compensation in the form of money.
17. Because the discriminatory actions were intentional and carried out by management level employees of the Defendant, Plaintiff is also entitled to an award of punitive damages in such amount as is authorized by law.
18. Plaintiff timely filed a charge of discrimination on or about February 8, 2020, within less than three hundred (300) days from the last discriminatory act. A right to sue letter was issued on or about August 25, 2020, and received thereafter. This lawsuit was filed within ninety (90) days of the receipt of the right to sue letter.

PRAYER

WHEREFORE, Plaintiff prays that she be awarded her actual and punitive damages herein together with costs, pre- and postjudgment interest and attorney's fees and any other relief as may be appropriate.

RESPECTFULLY SUBMITTED THIS 23rd DAY OF NOVEMBER 2020.

s/Mark Hammons

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JURY TRIAL DEMANDED
ATTORNEY LIEN CLAIMED